

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,)

Plaintiff,)

vs.)

AMG SERVICES, INC., *et al.*,)

Defendants.)

Case No.: 2:12-cv-00536-GMN-VCF

ORDER

Pending before the Court is the Motion to Reconsider, (ECF No. 1029), filed by Defendants Park 269, LLC and Kim C. Tucker (the “Relief Defendants”) and Defendants AMG Capital Management, LLC (“AMG”); Level 5 Motorsports, LLC; Black Creek Capital Corporation; Broadmoor Capital Partners; Scott A. Tucker; (the “Tucker Defendants”) (collectively “Defendants”). Plaintiff Federal Trade Commission (“FTC”) filed a Response, (ECF No. 1037). Pursuant to the parties’ Stipulated Briefing Schedule, (ECF No. 1035), Defendants did not file a reply. For the reasons discussed below, the Court **DENIES** the Motion.

I. BACKGROUND

On March 31, 2016, the Court entered an Order granting FTC’s Motion for Preliminary Injunction against Defendants in the form of an asset freeze and accounting (the “Asset Freeze Order”). (ECF No. 960). The instant Motion asks the Court to modify its Asset Freeze Order “to permit a continuation of the \$8,000/month living allowance and payment of particular tax and dues payments.” (Mot. 2:5–6, ECF No. 1029).

II. DISCUSSION

Whether to freeze a party's assets is a matter for the Court's discretion. *See Reebok Int'l, Ltd. v. Marnatech Enters., Inc.*, 970 F.2d 552, 562–63 (9th Cir. 1992) (district court had discretion to impose asset freeze). Likewise, whether to an asset freeze is also subject to the Court's discretion. *See F.T.C. v. Trek All., Inc.*, 81 Fed. Appx. 118, 119 (9th Cir. 2003) (“[T]he district court did not abuse its discretion in deciding that modification of the [asset freeze] order was not warranted in the circumstances”). Here, Defendants seek modification of the Court's Asset Freeze Order “to pay for necessities such as food, clothing, utilities, medical treatment, medicine, and gasoline.” (Mot. 3:25–4:1).

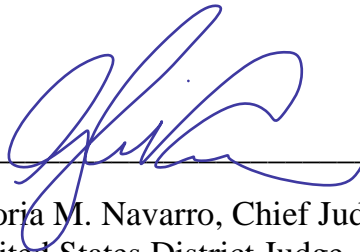
The FTC points out that “Scott Tucker and Kim Tucker have benefitted from a generous \$99,000 living allowance over five months.” (Resp. 2:2–3, ECF No. 1037). Further, the FTC has submitted evidence demonstrating that since the Court entered its asset freeze Order, Defendants have “continued their profligate lifestyle including spa, steakhouse, country club, and liquor purchases.” (*Id.* 2:4–5). In addition, “[d]uring this time period [Defendants] also spent \$10,000 on private school tuition for their 15-year old daughter” and, shortly before the Asset Freeze Order took effect, “prepaid four years of college tuition for [their] other daughter.” (*Id.* 4:3–5). Defendants have also withdrawn more than \$27,000 in cash without providing any evidence that the money was used for reasonable living expenses. (*Id.* 4:6–18).

The Court agrees with the FTC that “Scott Tucker and Kim Tucker have not submitted to the Court adequate rationale or documentation supporting the continuation of an \$8,000 monthly allowance,” particularly in light of the fact that Defendants own their homes and cars outright. (*Id.* 8:12–21). Accordingly, the Court finds that modification is not appropriate because Defendants have not established that they lack income or assets necessary to pay their living expenses. Unless Defendants correct these deficiencies, the Court refuses to modify the Asset Freeze Order as Defendants request.

1 **III. CONCLUSION**

2 **IT IS HEREBY ORDERED** that Defendants' Motion to Modify the Court's Asset
3 Freeze Order, (ECF No. 1029), is **DENIED**.

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5 **DATED** this 31 day of August, 2016.

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10 Gloria M. Navarro, Chief Judge
11 United States District Judge
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